

House Amendment 1638

PAG LIN

1 1 Amend Senate File 342, as amended, passed, and
1 2 reprinted by the Senate, as follows:
1 3 #1. Page 1, by striking lines 17 through 32.
1 4 #2. Page 2, by striking lines 18 through 34.
1 5 #3. By striking page 2, line 35, through page 3,
1 6 line 30.
1 7 #4. By striking page 5, line 25, through page 6,
1 8 line 16.
1 9 #5. By striking page 7, line 27, through page 8,
1 10 line 9.
1 11 #6. Page 8, by striking lines 11 through 22.
1 12 #7. By striking page 9, line 18, through page 10,
1 13 line 14.
1 14 #8. Page 10, by inserting before line 15, the
1 15 following:
1 16 <DIVISION ____
1 17 EMPLOYMENT
1 18 Sec. ____ Section 22.7, Code 2005, is amended by
1 19 adding the following new subsection:
1 20 NEW SUBSECTION. 51. Confidential information, as
1 21 defined in section 86.45, subsection 1, filed with the
1 22 workers' compensation commissioner.
1 23 Sec. ____ Section 85.27, subsection 7, Code 2005,
1 24 is amended to read as follows:
1 25 7. If, after the third day of incapacity to work
1 26 following the date of sustaining a compensable injury
1 27 which does not result in permanent partial disability,
1 28 or if, at any time after sustaining a compensable
1 29 injury which results in permanent partial disability,
1 30 an employee, who is not receiving weekly benefits
1 31 under section 85.33 or section 85.34, subsection 1,
1 32 returns to work and is required to leave work for one
1 33 full day or less to receive services pursuant to this
1 34 section, the employee shall be paid an amount
1 35 equivalent to the wages lost at the employee's regular
1 36 rate of pay for the time the employee is required to
1 37 leave work. For the purposes of this subsection, "day
1 38 of incapacity to work" means eight hours of
1 39 accumulated absence from work due to incapacity to
1 40 work or due to the receipt of services pursuant to
1 41 this section. The employer shall make the payments
1 42 under this subsection as wages to the employee after
1 43 making such deductions from the amount as legally
1 44 required or customarily made by the employer from
1 45 wages. Payments made under this subsection shall be
1 46 required to be reimbursed pursuant to any insurance
1 47 policy covering workers' compensation. Payments under
1 48 this subsection shall not be construed to be payment
1 49 of weekly benefits.
1 50 Sec. ____ Section 85.35, Code 2005, is amended to
2 1 read as follows:
2 2 85.35 ~~SETTLEMENT IN CONTESTED CASE~~ SETTLEMENTS.
2 3 1. The parties to a contested case or persons who
2 4 are involved in a dispute which could culminate in a
2 5 contested case may enter into a settlement of any
2 6 claim arising under this chapter or chapter 85A, 85B,
2 7 or 86, providing for ~~final~~ disposition of the claim,
2 8 ~~provided that no final disposition affecting rights to~~
2 9 ~~future benefits may be had when the only dispute is~~
2 10 ~~the degree of disability resulting from an injury for~~
2 11 ~~which an award for payments or agreement for~~
2 12 ~~settlement under section 86.13 has been made.~~ The
2 13 settlement shall be in writing on forms prescribed by
2 14 the workers' compensation commissioner and submitted
2 15 to the workers' compensation commissioner for
2 16 approval.
2 17 2. The parties may enter into an agreement for
2 18 settlement that establishes the employer's liability,
2 19 fixes the nature and extent of the employee's current
2 20 right to accrued benefits, and establishes the
2 21 employee's right to statutory benefits that accrue in
2 22 the future.
2 23 3. The parties may enter into a compromise
2 24 settlement of the employee's claim to benefits as a

2 25 full and final disposition of the claim.

2 26 4. The parties may enter into a settlement that is
2 27 a combination of an agreement for settlement and a
2 28 compromise settlement that establishes the employer's
2 29 liability for part of a claim but makes a full and
2 30 final disposition of other parts of a claim.

2 31 5. A contingent settlement may be made and
2 32 approved, conditioned upon subsequent approval by a
2 33 court or governmental agency, or upon any other
2 34 subsequent event that is expected to occur within one
2 35 year from the date of the settlement. If the
2 36 subsequent approval or event does not occur, the
2 37 contingent settlement and its approval may be vacated
2 38 by order of the workers' compensation commissioner
2 39 upon a petition for vacation filed by one of the
2 40 parties or upon agreement by all parties. If a
2 41 contingent settlement is vacated, the running of any
2 42 period of limitation provided for in section 85.26 is
2 43 tolled from the date the settlement was initially
2 44 approved until the date that the settlement is
2 45 vacated, and the claim is restored to the status that
2 46 the claim held when the contingent settlement was
2 47 initially approved. The contingency on a settlement
2 48 lapses and the settlement becomes final and fully
2 49 enforceable if an action to vacate the contingent
2 50 settlement or to extend the period of time allowed for
3 1 the subsequent approval or event to occur is not
3 2 initiated within one year from the date that the
3 3 contingent settlement was initially approved.

3 4 6. The parties may agree that settlement proceeds,
3 5 which are paid in a lump sum, are intended to
3 6 compensate the injured worker at a given monthly or
3 7 weekly rate over the life expectancy of the injured
3 8 worker. If such an agreement is reached, neither the
3 9 weekly compensation rate which either has been paid,
3 10 or should have been paid, throughout the case, nor the
3 11 maximum statutory weekly rate applicable to the injury
3 12 shall apply. Instead, the rate set forth in the
3 13 settlement agreement shall be the rate for the case.

3 14 The settlement shall not be approved unless
3 15 evidence of a bona fide dispute exists concerning any
3 16 of the following:

3 17 1. The claimed injury arose out of or in the
3 18 course of the employment.

3 19 2. The injured employee gave notice under section
3 20 85.23.

3 21 3. Whether or not the statutes of limitations as
3 22 provided in section 85.26 have run. When the issue
3 23 involved is whether or not the statute of limitations
3 24 of section 85.26, subsection 2, has run, the final
3 25 disposition shall pertain to the right to weekly
3 26 compensation unless otherwise provided for in
3 27 subsection 7 of this section.

3 28 4. The injury was caused by the employee's willful
3 29 intent to injure the employee's self or to willfully
3 30 injure another.

3 31 5. Intoxication, which did not arise out of and in
3 32 the course of employment but which was due to the
3 33 effects of alcohol or another narcotic, depressant,
3 34 stimulant, hallucinogenic, or hypnotic drug not
3 35 prescribed by an authorized medical practitioner, was
3 36 a substantial factor in causing the employee's injury.

3 37 6. The injury was caused by the willful act of a
3 38 third party directed against the employee for reasons
3 39 personal to such employee.

3 40 7. This chapter or chapter 85A, 85B, 86 or 87
3 41 applies to the party making the claim.

3 42 8. A substantial portion of the claimed disability
3 43 is related to physical or mental conditions other than
3 44 those caused by the injury.

3 45 7. A settlement shall be approved by the workers'
3 46 compensation commissioner if the parties show all of
3 47 the following:

3 48 a. Substantial evidence exists to support the
3 49 terms of the settlement.

3 50 b. Waiver of the employee's right to a hearing,
4 1 decision, and statutory benefits is made knowingly by
4 2 the employee.

4 3 c. The settlement is a reasonable and informed
4 4 compromise of the competing interests of the parties.

4 5 If an employee is represented by legal counsel, it

4 6 is presumed that the required showing for approval of
4 7 the settlement has been made.

4 8 8. Approval of a settlement by the workers'
4 9 compensation commissioner ~~shall be~~ is binding on the
4 10 parties and shall not be construed as an original
4 11 proceeding. Notwithstanding any provisions of this
4 12 chapter and chapters 85A, 85B, 86 and 87, an approved
4 13 ~~compromise~~ settlement shall constitute a final bar to
4 14 any further rights arising under this chapter and
4 15 chapters 85A, 85B, 86, and 87. ~~Such regarding the~~
4 16 ~~subject matter of the compromise and a payment made~~
4 17 ~~pursuant to a compromise settlement agreement~~ shall
4 18 not be construed as the payment of weekly
4 19 compensation.

4 20 Sec. _____. Section 85.38, subsection 2, unnumbered
4 21 paragraph 2, Code 2005, is amended to read as follows:

4 22 If an employer denies liability under this chapter,
4 23 chapter 85A, or chapter 85B, for payment for any
4 24 medical services received ~~or weekly compensation~~
4 25 ~~requested~~ by an employee ~~with a disability~~, and the
4 26 employee is a beneficiary under either an individual
4 27 or group plan for nonoccupational illness, injury, or
4 28 disability, the nonoccupational plan shall not deny
4 29 payment for the medical services received ~~or for~~
4 30 ~~benefits under the plan~~ on the basis that the
4 31 employer's liability ~~for the medical services~~ under
4 32 this chapter, chapter 85A, or chapter 85B is
4 33 unresolved.

4 34 Sec. _____. Section 85.71, Code 2005, is amended by
4 35 adding the following new subsection:

4 36 NEW SUBSECTION. 5. The employer has a place of
4 37 business in Iowa, and the employee is working under a
4 38 contract of hire which provides that the employee's
4 39 workers' compensation claims be governed by Iowa law.

4 40 Sec. _____. Section 86.24, subsection 4, Code 2005,
4 41 is amended to read as follows:

4 42 4. A transcript of a contested case proceeding
4 43 shall be provided ~~to the workers' compensation~~
4 44 ~~commissioner~~ by an appealing party at the party's cost
4 45 ~~and an affidavit shall be filed by the appealing party~~
4 46 ~~or the party's attorney with the workers' compensation~~
4 47 ~~commissioner within ten days after the filing of the~~
4 48 ~~appeal to the workers' compensation commissioner~~
4 49 ~~stating that the transcript has been ordered and~~
4 50 ~~identifying the name and address of the reporter or~~
5 1 ~~reporting firm from which the transcript has been~~
5 2 ~~ordered.~~

5 3 Sec. _____. NEW SECTION. 86.45 CONFIDENTIAL
5 4 INFORMATION.

5 5 1. "Confidential information", for the purposes of
5 6 this section, means all information that is filed with
5 7 the workers' compensation commissioner as a result of
5 8 an employee's injury or death that would allow the
5 9 identification of the employee or the employee's
5 10 dependents. Confidential information includes first
5 11 reports of injury and subsequent reports of claim
5 12 activity. Confidential information does not include
5 13 pleadings, motions, decisions, opinions, or
5 14 applications for settlement that are filed with the
5 15 workers' compensation commissioner.

5 16 2. The workers' compensation commissioner shall
5 17 not disclose confidential information except as
5 18 follows:

5 19 a. Pursuant to the terms of a written waiver of
5 20 confidentiality executed by the employee or the
5 21 dependents of the employee whose information is filed
5 22 with the workers' compensation commissioner.

5 23 b. To another governmental agency, or to an
5 24 advisory, rating, or research organization, for the
5 25 purpose of compiling statistical data, evaluating the
5 26 state's workers' compensation system, or conducting
5 27 scientific, medical, or public policy research, where
5 28 such disclosure will not allow the identification of
5 29 the employee or the employee's dependents.

5 30 c. To the employee or to the agent or attorney of
5 31 the employee whose information is filed with the
5 32 workers' compensation commissioner.

5 33 d. To the person or to the agent of the person who
5 34 submitted the information to the workers' compensation
5 35 commissioner.

5 36 e. To an agent, representative, attorney,

5 37 investigator, consultant, or adjuster of an employer,
5 38 or insurance carrier or third-party administrator of
5 39 workers' compensation benefits, who is involved in
5 40 administering a claim for such benefits related to the
5 41 injury or death of the employee whose information is
5 42 filed with the workers' compensation commissioner.

5 43 f. To all parties to a contested case proceeding
5 44 before the workers' compensation commissioner in which
5 45 the employee or a dependent of the employee, whose
5 46 information is filed with the workers' compensation
5 47 commissioner, is a party.

5 48 g. In compliance with a subpoena.

5 49 h. To an agent, representative, attorney,
5 50 investigator, consultant, or adjuster of the employee,
6 1 employer, or insurance carrier or third-party
6 2 administrator of insurance benefits, who is involved
6 3 in administering a claim for insurance benefits
6 4 related to the injury or death of the employee whose
6 5 information is filed with the workers' compensation
6 6 commissioner.

6 7 i. To another governmental agency that is charged
6 8 with the duty of enforcing liens or rights of
6 9 subrogation or indemnity.

6 10 3. This section does not create a cause of action
6 11 for a violation of its provisions against the workers'
6 12 compensation commissioner or against the state or any
6 13 governmental subdivision of the state.

6 14 Sec. _____. Section 87.11, unnumbered paragraph 1,
6 15 Code 2005, is amended to read as follows:

6 16 When an employer coming under this chapter
6 17 furnishes satisfactory proofs to the insurance
6 18 commissioner of such employer's solvency and financial
6 19 ability to pay the compensation and benefits as by law
6 20 provided and to make such payments to the parties when
6 21 entitled thereto, or when such employer deposits with
6 22 the insurance commissioner security satisfactory to
6 23 the insurance commissioner ~~and the workers'~~

~~6 24 compensation commissioner~~ as guaranty for the payment
6 25 of such compensation, such employer shall be relieved
6 26 of the provisions of this chapter requiring insurance;
6 27 but such employer shall, from time to time, furnish
6 28 such additional proof of solvency and financial
6 29 ability to pay as may be required by such insurance
6 30 commissioner ~~or workers' compensation commissioner.~~

~~6 31 Such security shall be held in trust for the sole
6 32 purpose of paying compensation and benefits and is not
6 33 subject to attachment, levy, execution, garnishment,
6 34 liens, or any other form of encumbrance. However, the
6 35 insurance commissioner shall be reimbursed from the
6 36 security for all costs and fees incurred by the
6 37 insurance commissioner in resolving disputes involving
6 38 the security.~~ A political subdivision, including a

6 39 city, county, community college, or school
6 40 corporation, that is self-insured for workers'
6 41 compensation is not required to submit a plan or
6 42 program to the insurance commissioner for review and
6 43 approval.

6 44 Sec. _____. Section 87.14A, Code 2005, is amended to
6 45 read as follows:

6 46 87.14A INSURANCE ~~OR BOND~~ REQUIRED.

6 47 An employer subject to this chapter and chapters
6 48 85, 85A, 85B, and 86 shall not engage in business
6 49 without first obtaining insurance covering
6 50 compensation benefits or obtaining relief from
7 1 insurance as provided in this chapter ~~or furnishing a
7 2 bond pursuant to section 87-16.~~ A person who
7 3 willfully and knowingly violates this section is
7 4 guilty of a class "D" felony.

7 5 Sec. _____. Section 87.19, unnumbered paragraph 1,
7 6 Code 2005, is amended to read as follows:

7 7 Upon the receipt of information by the workers'
7 8 compensation commissioner of any employer failing to
7 9 comply with ~~sections 87-16 and 87-17~~ section 87.14A,
7 10 the commissioner shall at once notify such employer by
7 11 certified mail that unless such employer comply with
7 12 the requirements of law, legal proceedings will be
7 13 instituted to enforce such compliance.

7 14 Sec. _____. Section 87.20, Code 2005, is amended to
7 15 read as follows:

7 16 87.20 REVOCATION OF RELEASE FROM INSURANCE.

7 17 The insurance commissioner ~~with the concurrence of~~

~~7 18 the workers' compensation commissioner may, at any
7 19 time, upon reasonable notice to such employer and upon
7 20 hearing, revoke for cause any order theretofore made
7 21 relieving any employer from carrying insurance as
7 22 provided by this chapter.~~

~~7 23 Sec. ____ Section 91A.3, subsection 3, Code 2005,
7 24 is amended to read as follows:~~

~~7 25 3. The wages paid under subsection 1 shall be sent
7 26 to the employee by mail or be paid at the employee's
7 27 normal place of employment during normal employment
7 28 hours or at a place and hour mutually agreed upon by
7 29 the employer and employee, or the employee may elect
7 30 to have the wages sent for direct deposit, on or by
7 31 the regular payday of the employee, into a financial
7 32 institution designated by the employee. An employer
7 33 shall not require a current employee to participate in
7 34 direct deposit. The employer may require, as a
7 35 condition of hire, a new employee to sign up for
7 36 direct deposit of the employee's wages in a financial
7 37 institution of the employee's choice unless either of
7 38 the following conditions exist:~~

~~7 39 a. The costs to the employee of establishing and
7 40 maintaining an account for purposes of the direct
7 41 deposit would effectively reduce the employee's wages
7 42 to a level below the minimum wage provided under
7 43 section 91D.1.~~

~~7 44 b. The provisions of a collective bargaining
7 45 agreement mutually agreed upon by the employer and the
7 46 employee organization prohibit the employer from
7 47 requiring an employee to sign up for direct deposit as
7 48 a condition of hire.~~

~~7 49 Sec. ____ Section 91A.6, Code 2005, is amended by
7 50 adding the following new subsection:~~

~~8 1 NEW SUBSECTION. 4. On each regular payday, the
8 2 employer shall send to each employee by mail or shall
8 3 provide at the employee's normal place of employment
8 4 during normal employment hours a statement showing the
8 5 hours the employee worked, the wages earned by the
8 6 employee, and deductions made for the employee. An
8 7 employer who provides each employee access to view an
8 8 electronic statement of the employee's earnings and
8 9 provides the employee free and unrestricted access to
8 10 a printer to print the employee's statement of
8 11 earnings, if the employee chooses, is in compliance
8 12 with this subsection.~~

~~8 13 Sec. ____ Sections 87.16 and 87.17, Code 2005, are
8 14 repealed.~~

~~8 15 Sec. ____ EFFECTIVE DATE. This division of this
8 16 Act takes effect July 1, 2005.>~~

~~8 17 #9. Title page, line 1, by striking the word
8 18 <appropriation> and inserting the following:
8 19 <financial and regulatory>.~~

~~8 20 #10. Title page, line 2, by inserting after the
8 21 figure <2004,> the following: <making civil penalties
8 22 applicable>.~~

~~8 23 #11. By renumbering, relettering, or redesignating
8 24 and correcting internal references as necessary.~~

~~8 25
8 26~~

~~8 27~~

~~8 28 COMMITTEE ON APPROPRIATIONS~~

~~8 29 DIX of Butler, Chairperson~~

~~8 30 SF 342.305 81~~

~~8 31 jp/cf/4971~~